

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WAYNE FARMS LLC)	Civil Action No.: 20-5191
)	
Plaintiff,)	Judge Feinerman
v.)	
)	Magistrate Judge Valdez
JOHN DOE, A/KA GRACIE,)	
HENDERSON, A/K/A FRANK L)	
ANNESE and LINKEDIN)	
CORPORATION)	
)	
Defendants)	

**MOTION FOR ISSUANCE OF SUMMONS
AND AUTHORIZING SERVICE BY PUBLICATION AND ELECTRONICALLY**

Now comes Plaintiff, Wayne Farms LLC, (“Wayne Farms”) by its attorneys, Ladas & Parry LLP and hereby moves this court (1) authorize the Clerk to issue summons naming (a) GRACIE HENDERSON and (b) FRANK L ANNESE in the form shown in Exhibits A and B hereto; and (2) authorize service by a combination of publication and electronic notice on JOHN DOE, A/KA GRACIE HENDERSON, A/K/A FRANK L ANNESE pursuant to Rule 4 Fed. R. Civ. P..

DISCOVERY OF IDENTITY AND LOCATION

The reasons for approval of these means of service are that JOHN DOE began the fraud using a fake name – that of Pat Gomez, an employee of Wayne Farms – and the real name has been sought during discovery:

- (1) Subpoena to Defendant LinkedIn Corporation, the production regarding which is Exhibit C;
- (2) Subpoena to Wells Fargo Bank, the production regarding which is Exhibit D
- (3) Letter Response to Temporary Restraining Order dated September 23, 2020, postmarked September 24, 2020, with a Post Office code dated September 25, 2020 and

delivered October 14, 2020 the typewritten address being 22 S Michigan Ave., not 224 S. Michigan Ave.

(4) Answer to Temporary Restraining Order by BB and R, now Truist, which is Exhibit E

A notable omission is that BB and T has not complied with either

- a. A subpoena or
- b. The Temporary Restraining Order, paragraph 5. c. “Provide a full accounting of activity in said accounts within ten days, which may be extended for good cause shown or by agreement with Plaintiff.”¹

LINKEDIN IDENTIFIED ADDITIONAL EMAIL ADDRESSES

The discovery response of LinkedIn did not identify any real name or address for JOHN DOE – fake Pat Gomez – although it did identify several other names and additional email addresses. Thus, the total email addresses associated with JOHN DOE are:

patrickwaynefarms@consultant.com
patrickwaynefarms@outlook.com
godsonnguyen101@gmail.com
butcherspride.frozenfoods@gmail.com

WELLS FARGO IDENTIED A NAME, PASSPORT AND TWO ADDRESSES

As shown in Exhibit D which comprises the account opening documents and signature cards, two accounts are opened, two addresses are identified, one including an apartment number, and the identification was a Passport which is identified as:

Primary ID Type: PASP
Primary ID St/Ctry/Prov: ZW
Secondary ID Type:
OTHR
Secondary ID Description:
USA VISA XXXXXXXXXXXX0001 zw
Country of Citizenship:
Zw
Permanently Resides in US:

¹ On October 28, in a telephone discussion with John Buck of the corporation now known as Truist, production was said to be intended to be expedited.

YES

FRANK L ANNESE presented a Zimbabwe Passport and US Visa as identification

The two addresses are

FRANK L ANNESE
8150 LAKECREST DR
APT 15
GREENBELT, MD 20770-3344

FRANK L ANNESE
6271 GREEN FIELD RD
ELKRIDGE, MD 21075-6263

NOTICE OF THE SUIT HAS ALREADY BEEN PUBLISHED

Exhibit E shows that, unlike the traditional classified advertisement in the Chicago Daily Law Bulletin, a feature article about this action was published, nationally, in LAW 360 a two page feature article lead:

“Law360 (September 3, 2020, 6:30 PM EDT) -- Wayne Farms LLC filed suit against LinkedIn in Illinois federal court on Wednesday accusing the social networking site of failing to take appropriate measures to stop an unknown "John Doe" from posing as an employee of the poultry giant and soliciting fraudulent product orders.

Both LinkedIn and the John Doe are named as defendants in the lawsuit, which includes claims against the social media company for contributory fraud and vicarious liability, as well as claims against the "fake" employee, including for federal trademark infringement, dilution and unfair competition.”

The article continues, summarizing allegations in the Complaint though salient by the author of the article.

EXHIBIT A SERVICE BY SUMMONS ON GRACIE HENDERSON

Because this is a JOHN DOE Complaint (Amended Complaint) alleging either that FRANK L ANNESE is an alias of JOHN DOE, or is the real name of JOHN DOE, or is a co-

conspirator (Amended Complaint, Docket 23, ¶¶ 2, 33) it is appropriate for the Clerk to issue Summons to GRACIE HENDERSON. While Rule 4 requires an address, no address is currently available. Summons could issue and service be attempted if and when an address becomes known. Exhibit A has the address blank.

EXHIBIT B SUMMONS TO AND SERVICE ON FRANK L ANNESE

Because this is a JOHN DOE Complaint (Amended Complaint) alleging either that FRANK L ANNESE is an alias of JOHN DOE, or is the real name of JOHN DOE, or is a co-conspirator (Amended Complaint, Docket 23, ¶¶ 2, 33) it is appropriate for the Clerk to issue Summons to FRANK L. ANNESE using the best available addresses. Ordinary service can be attempted

SERVICE BY PUBLICATION AND ELECTRONIC COMMUNICATION

This case presents unique facts. The true name of JOHN DOE is not known, but is suspected. He or she may be an individual with aliases (the Complaint is about one) or an individual with co-conspirators GRACIE HENDERSON and FRANK L ANNESE, or a combination. One fake identity – which forms the basis for the Complaint – and Wayne Farms – are identified in the published news article. There are two email addresses used in the fraud (Exhibits to Motion for Temporary Restraining Order, Docket 11, Exh. 7, (patrickwaynefarms@consultant.com) Exh. 10, (patrickwaynefarm@outlook.com), Exh. 13 (patrickwaynefarms@outlook.com; patrickwaynefarms@consultant.com). The Complaint was newsworthy enough to be the subject of a national article (Exhibit E) and, indeed, the public pleadings, including the Complaint, are available for free on the website “Courtlistener\Recap” <https://www.courtlistener.com/docket/18476666/wayne-farms-llc-v-john-doe/> Finally, FRANK L ANNESE is identified as a Citizen of Zimbabwe, Exhibit D, page 3.

RULE 4 FED R CIV P PERMITS SERVICE BY PUBLICATION

Service by publication is contemplated on both domestic and foreign defendants (see e.g. Rule 4 (c) (3) special process server; Rule 4 (e) (1) by state law, which includes publication, 735 ILCS 5/2-206, and Rule 4 (f) Rule 4(f)(3)).

We do not know if FRANK L ANNESE, or whoever presented the Zimbabwe passport to Wells Fargo is physically within the jurisdiction of a District Court. We do know that this fact situation meets nearly exactly:

“Lastly, allowing for service via e-mail and electronic publication is appropriate in this case because (1) Defendants have provided false names and physical address information in their domain names in order to conceal their location and avoid liability for their unlawful conduct, (2) Defendants rely primarily on electronic communications to communicate with their registrars and customers, demonstrating that electronic service would be a reliable means of apprising the Defendants of this case, and (3) Plaintiff is unable to determine the exact physical whereabouts or identifies of the registrants of the domain names being used to operate Defendants' online marketplaces.

Deckers Outdoor Corp. v. Partnerships and Unincorporated Associations, No. 13 C 2167, 2013 WL 1337616 (ND Ill, 2013) Similarly, we do not know the whereabouts of GRACIE HENDERSON or even if he or she is a different person. But the case has received newspaper coverage, and we know JOHN DOE uses email.

CONCLUSION

Wayne Farms prays this Court ORDER:

- (1) The Clerk shall issue Summons to GRACIE HENDERSON in the form illustrated in Exhibit A to this Motion;

(2) The Clerk shall issue Summons to FRANK L ANNESE in the form illustrated in

Exhibit A to this Motion;

(3) Service of Process shall be effective by sending electronic mail (e-mail) to

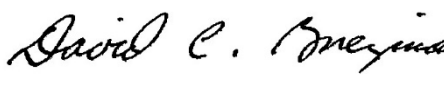
patrickwaynefarms@outlook.com

and patrickwaynefarms@outlook.com

with a copy of the Summons and Complaint.

and for such other relief as the Court shall deem proper.

Respectfully submitted,

By: 

David C. Brezina (ID3121581)

Attorneys for Plaintiff, Wayne Farms LLC

Date: October 28, 2020

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing will be filed in the Northern District of Illinois - CM/ECF LIVE, Document Filing System, which will forward copies thereof to any counsel of record.

I will also serve a copy by electronic mail to:

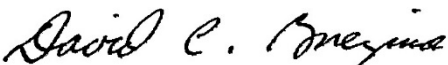
(1) Defendant LinkedIn

Jason Skaggs
Skaggs Faucette
530 Lytton Avenue
2nd Floor
Palo Alto CA 94301
jason@skaggsfaucette.com

(2) Defendant John Doe:

patrickwaynefarms@consultant.com
patrickwaynefarms@outlook.com
godsonnguyen101@gmail.com
butcherspride.frozenfoods@gmail.com

Date of Signature: October 28, 2020


David C. Brezina